

FILED

UNITED STATES COURT OF APPEALS

JUN 25 2012

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KEVIN EMBRY, individually and on
behalf of himself, the general public and
those similarly situated,

Plaintiff - Appellee,

CHRISTOPHER BANDAS,

Objector - Appellant,

v.

ACER AMERICA CORPORATION, a
California corporation,

Defendant - Appellee.

No. 12-15555

D.C. No. 5:09-cv-01808-JW
Northern District of California,
San Jose

ORDER

Before: Peter L. Shaw, Appellate Commissioner.

Appellant's renewed "motion to reopen" is construed as a renewed motion to reinstate this appeal. So construed, the opposed motion is granted.

Appellee's motion for summary affirmance of this appeal, as contained in its opposition to appellant's renewed motion to reopen, is denied without prejudice to renewal following the filing of the opening brief. *See United States v. Harris*, 846 F.2d 50 (9th Cir. 1988).

MT/MOATT

The opening brief and excerpts of record are due August 6, 2012; the answering brief is due September 5, 2012; and the optional reply is due within 14 days after service of the answering brief.